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EXAMINER

LESNIEWSKI, VICTOR D

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

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Technology Center 2100

Application Number: 09/778,281
Filing Date: February 07, 2001
Appellant(s): RAFAL ET AL.

Charles G. Call, Reg. No. 20406
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/28/2005 appealing from the Office action mailed 1/26/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,223,177	TATHAM ET AL.	4-2001
6,484,196	MAURILLE	11-2002
6,590,589	SLUIMAN ET AL.	7-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatham et al. (U.S. Patent Number 6,223,177), hereinafter referred to as Tatham, in view of Maurille (U.S. Patent Number 6,484,196).

Tatham disclosed a network based groupware system where participants can communicate with one another online in various ways. A major focus of his system is the ability of the server to receive instructions input from a user for creating a dedicated site based on the

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instructions. In an analogous art, Maurille disclosed a network communication system for a collaborative environment which offers various options for communications among users. Both systems prove to be advances on network based groupware.

Concerning claims 1 and 8, Tatham did not explicitly state a specification of a scheduled time or schedule time range during which an online gathering would occur. Although Tatham is not explicit in this regard, he does note that his system “may be created on the server for a period of time desired by the primary user.” See Tatham, column 4, lines 22-23. Furthermore, Maurille does explicitly disclose a specified scheduled time as recited in claims 1 and 8. Since the inventions of Tatham and Maurille encompass the same field of endeavor, it would have been obvious to one of ordinary skill in the art at the time of the applicant’s invention to modify the system of Tatham by adding the ability to specify a scheduled time as provided by Maurille. Here, the combination satisfies the need for a collaborative server system that allows a normal user greater control over the functionality of the system. See Tatham, column 1, lines 37-46. This rationale also applies to those dependent claims utilizing the same combination.

Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as an alternative method are rejected under the same rationale applied to the described claim.

Thereby, the combination of Tatham and Maurille discloses:

- <Claims 1 and 8>

The method of using the Internet to create and host a customized online gathering of participants which occurs at a scheduled time comprising, in combination, the steps of: providing at least one server computer connected to the Internet for communicating with

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a plurality of client computers operated by users which are also connected to the Internet (Tatham, column 3, lines 39-49 and column 4, lines 11-18), storing at said server computer: a) template data defining one or more template web pages, each of said template web pages implementing a predetermined activity in which said users may participate as part of said online gathering (Tatham, column 4, lines 55-60), b) an identification of said first user as the host of said online gathering (Tatham, column 4, lines 43-48), c) a guest list accepted from said first user identifying a plurality of other invited users (Tatham, column 4, lines 61-65), d) a specification of a scheduled time or scheduled time range during which the online gathering will occur (Maurille, column 6, lines 23-36), and e) customization data accepted from said first user (Tatham, column 4, lines 28-33 and 55-60), combining said template data and said customization data to create customized web pages which together implement said customized online gathering (Tatham, column 4, line 66 through column 5, line 14), establishing at said scheduled time or during said scheduled time range (Maurille, column 6, lines 23-36) an authorized connection via the Internet between said server computer and each of said invited users that choose to participate in said gathering (Tatham, column 5, line 55 through column 6, line 7), and responding to requests received from any given one of said invited users during said online gathering by transmitting to said given user a requested one of said customized Web pages (Tatham, column 5, lines 23-26).

Claim 8 also recites limitations as discussed in claim 2 below.

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- <Claims 2 and 9>

The method as set forth in claim 1 wherein said guest list includes the email addresses of at least some of said other users and further including the step performed before said scheduled time or scheduled time range (Maurille, column 6, lines 23-36) of transmitting an invitation to said gathering to each of said email addresses (Tatham, column 5, lines 9-14).

- <Claims 6 and 10>

The method as set forth in claim 1 wherein said at least one server computer comprises a first server which acts as an application service provider for presenting said Web pages to users who access at least some of said Web pages using addresses supplied by a collaborating server computer (Maurille, column 5, line 55 through column 6, line 12).

- <Claims 7 and 12>

The method as set forth in claim 1 wherein at least a given one of said template web pages implements an activity in which said invited users may communicate with one another, said method including the further steps of accepting contributed data from one or more of said other invited users, storing said contributed data on said server computer, and thereafter displaying at least selected contributed data as part of said given one of said Web pages (Tatham, column 6, lines 9-26).

Since the combination of Tatham and Maurille discloses all of the above limitations, claims 1, 2, 6-10, and 12 are rejected.

Claims 3-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatham in view of Maurille, as applied above, further in view of Sluiman et al. (U.S. Patent Number 6,590,589), hereinafter referred to as Sluiman.

The combination of Tatham and Maurille disclosed a network based groupware system where participants could communicate with one another online in various ways and at scheduled times, as discussed above. The combination allows a user to utilize templates and input instruction data in order to create a customized environment. In an analogous art, Sluiman disclosed a computer system having a graphical user interface for accepting input from a user to create objects in an object-oriented computing environment. Both the combination described above and Sluiman's system generate template files that reflect the work-flow defined by input from the user.

The combination of Tatham and Maurille did not explicitly state the designation of certain types of activities, the automatic insertion of default values, or replacement of default values by the user. However, Sluiman did disclose these various features in detail. It is evident that his system allows the user to select various elements and attributes of the design, including a name or type for each template. Although the words "occasion" and "theme" are not explicit, the various descriptive attributes mentioned could easily represent such categories, especially when taken into consideration with the details of the systems disclosed by Tatham and Maurille. The use of the words "occasion" and "theme" are not patentably distinct from the various elements and attributes available to the user of Sluiman's system. Sluiman also went into detail in discussing the establishment of default values in his templates and the ability of the user to replace them later on in the process. Since the combination of Tatham and Maurille and the

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invention of Sluiman encompass the same field of endeavor, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the combination of Tatham and Maurille by allowing for more features within the template, such as more designations of various attributes and the use of default values, as provided by Sluiman. See Sluiman, column 6, lines 44-58. Again, the combination satisfies the need for a collaborative server system that allows a normal user greater control over the functionality of the system. See Tatham, column 1, lines 37-46.

Thereby, the combination of Tatham, Maurille, and Sluiman discloses:

- <Claim 3>

The method as set forth in claim 1 wherein said customization data accepted from said first user includes the designation of a gathering type and wherein, in response to said designation of said gathering type, said server computer automatically establishes a set of predetermined default values for said customization data which are combined with said template data to produce preliminary customized pages (Sluiman, column 9, lines 35-47).

- <Claims 4 and 11>

The method as set forth in claim 3 wherein said gathering type is designated by the combination of an occasion type and a theme associated with said occasion type (Sluiman, column 7, lines 42-46).

- <Claim 5>

The method as set forth in claim 3 further including the steps of accepting from said first user replacement attribute values which may be substituted for particular ones of said

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default values to modify said preliminary customized pages (Sluiman, column 9, line 59 through column 10, line 9).

Since the combination of Tatham, Maurille, and Sluiman discloses all of the above limitations, claims 3-5 and 11 are rejected.

(10) Response to Argument

In the remarks, the applicant has argued:

- <Argument 1>

The combination of Tatham and Maurille does not disclose the features of independent claim 1 and like independent claim 8 because it does not disclose “template data defining one or more template web pages, each of said template web pages implementing a predetermined activity in which said users may participate as part of said online gathering” as recited in claim 1.

- <Argument 2>

The combination of Tatham and Maurille does not disclose the features of independent claim 1 and like independent claim 8 because it does not disclose “combining said template data and said customization data to create customized web pages which together implement said customized online gathering” as recited in claim 1.

- <Argument 3>

The combination of Tatham and Maurille does not disclose the features of independent claim 1 and like independent claim 8 because it does not disclose “a specification of a

scheduled time or scheduled time range during which the online gathering will occur” as recited in claim 1.

- <Argument 4>

The combination of Tatham, Maurille, and Sluiman does not disclose the features of dependent claims 3-5 and 11 because it does not disclose the limitations recited in those claims.

- <Argument 5>

The combination of Tatham and Maurille does not disclose the features of dependent claims 6 and 10 because it does not disclose web servers acting in collaboration with each other as recited in those claims.

Before discussing each argument in detail, it is noted that the applicant has stated invocation of 35 U.S.C. 112, sixth paragraph, concerning all appealed claims. However, it is believed that the language of claims 1-12 does not fall within 35 U.S.C. 112, sixth paragraph. The claims do not use the phrase “means for” or the phrase “step for”. Instead they recite “the steps of” which, according to MPEP 2181, tends to show that 35 U.S.C. 112, sixth paragraph, does not govern that limitation. Further, even if the claims did state a “means for” or “step for” completing the method, the claims recite structure (for example a server computer and client computers) in order to perform the specified functions. According to MPEP 2181, the phrase “means for” or “step for” must not be modified by sufficient structure, material, or acts for achieving the specified function. In addition, this mention of 35 U.S.C. 112, sixth paragraph, in the applicant’s brief is the first mention of its kind in the prosecution of the case. According to

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MPEP 2181, the applicant has an opportunity and obligation to specify when a claim limitation invokes 35 U.S.C. 112, sixth paragraph, yet the subject was never broached during prosecution.

In response to argument 1 (set forth on page 9 of the brief under heading "Ground 1"), the combination of Tatham and Maurille does disclose the template data as recited in claim 1. The previous line citation to Tatham, column 4, lines 55-60, clearly states that a user is provided with a workgroup creation template. The workgroup creation template includes such categories as the name of the workgroup, the number of group members, the addresses for the group members, the applications to be utilized during the project, etc. These categories meet the limitation of template data. The specific data that the primary user will enter for each of these categories meets the limitation of customization data (to be discussed further with regard to argument 2).

Further, it can be seen that the workgroup creation template does in fact define template web pages. Here the private office suite meets the limitation of the template web pages. The workgroup creation template and the private office suite are accessed over an intranet or the Internet via a web browser. The workgroup creation template is used to create the private office suite and the private office suite allows team members to run a specific application from a web page via a web browser. Examples of applications in Tatham's system include a bulletin board, a chat room, a calendar, a presentation library, etc. These applications, implemented in the private office suite, clearly meet the limitations of "template web pages implementing a predetermined activity in which said users may participate as part of said online gathering". See

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Tatham, column 4, line 19 through column 7, line 11 for specific details on the private office suite and applications run thereon.

In response to argument 2 (set forth in the brief under “Ground 2”), the combination of Tatham and Maurille does disclose the creation of customized web pages as recited in claim 1. The citation that the applicant refers to in the brief, Tatham, column 4, lines 28-33 and 55-60, was in fact used in the rejection of claim 1 and should be taken into consideration when reading the limitation at hand. However, the citation to Tatham, column 4, line 66 through column 5, line 14, was previously cited in direct regard to the limitation at hand. It is noted that the applicant has not addressed this citation in the brief. This citation clearly states the server’s creation of the dedicated site or private office suite. To create the site, the server utilizes the data from workgroup creation template. The workgroup creation template contains the informational categories (template data) and the specific information for each category entered by the user (customization data). Thus the creation of the dedicated site meets the limitation of “combining said template data and said customization data to create customized web pages which together implement said customized online gathering”. Tatham even refers specifically to his private office suite as “a customizable, secure office suite”. See Tatham, column 4, lines 28-33, which had been previously cited in relation to the customization data.

Further, the applicant has argued (see page 10, second paragraph, of the brief) that Tatham’s system operates differently than the applicant’s system as described in the specification at page 22, line 19 to page 23, line 27. However, the specific functionality described therein is not a limitation of the claims.

In response to argument 3 (set forth in the brief under “Ground 3”), the combination of Tatham and Maurille does disclose the scheduled time or time range as recited in claim 1. The previous line citation to Maurille, column 6, lines 23-36, clearly states the use of a scheduled online conference. Both Tatham and Maurille set forth network based groupware systems for online conferencing and the like. The applicant has argued (see page 11, second paragraph, of the brief) that the combination of Tatham and Maurille would result in “a method for creating a workgroup that exists for an unscheduled period until its creator decides it is no longer needed where the created workgroup could give its members the ability to access an application program for holding a scheduled conference.” However, this argument is nonsensical. Maurille’s online conferencing system sets forth a “conference mode” that allows for scheduled conferences. One of ordinary skill in the art would similarly view Tatham’s private office suite as an online conferencing system. Although, Tatham sets forth a variety of applications that can be run by the private office suite, the private office suite itself effectively comprises the online conferencing system. Logically, a variation such as scheduling conferences that is applied to Maurille’s online conferencing system could easily be applied to Tatham’s private office suite. Further, it is maintained that this combination would have been obvious to one of ordinary skill in the art at the time of the applicant’s invention for the reasons addressed in the rejection. It is noted that the applicant agrees with the reasoning behind the combination (see page 10, fourth paragraph, of the brief).

In response to argument 4 (set forth in the brief under “Ground 4”), the combination of Tatham, Maurille, and Sluiman does disclose the limitations as recited in claims 3-5 and 11. The applicant has argued (see page 11, fourth paragraph, of the brief) that the rejection is based on hindsight reconstruction. However, the basis for this argument is that the combination of Tatham and Maurille does not disclose the limitations of the independent claims and therefore there is no need to further simplify the process that was presented in the independent claims. Since it is maintained above that the combination of Tatham and Maurille does disclose the limitations of the independent claims, this reasoning will be discounted. Further it is maintained that there is sufficient motivation to combine Sluiman with the combination of Tatham and Maurille as presented in the rejection (see pages 7 and 8 above). This statement of motivation to combine has not been addressed by the applicant.

Concerning claims 3 and 11, the previous line citation to Sluiman, column 9, lines 35-47, clearly states presenting a user with default values during the process of creating a customizable application. This application creation relates directly to Tatham’s workgroup creation template. Thus, logically, one of ordinary skill in the art would have been able to see that default values could be used in the workgroup creation template so that the user would not have to input all of the customization data himself, but could leave the default values if they were to his liking.

Concerning claims 3, 4, and 11 where the default values are established based on some gathering type or theme, the previous line citation to Sluiman, column 7, lines 42-46, was cited to show that the customizable file does in fact represent “elements as defined by the user”. In the combination of Tatham and Maurille, elements defined by the user would clearly relate to online conferencing elements. The elements would include, for example, the name of the workgroup,

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the number of group members, the addresses for the group members, the applications to be utilized during the project, etc. as previously discussed in relation to argument 1.

Further regarding the use of the words “occasion” and “theme”, it is maintained that these words do not set forth a patentable distinction as described in the rejection (see pages 7 and 8 above). Although the prior art of record does not specifically use the words “occasion” or “theme” it is clear that the online conferencing systems discussed maintain online conferences that have a specific purpose. For example, Tatham sets forth the embodiment wherein his private office suite sustains a conference for a workgroup. The workgroup is working on a specific project. See Tatham, column 1, lines 11-20. Tatham even states the fact that the user of his system can customize the private office suite based on the scope of the project. Again see Tatham, column 4, lines 55-60. It was well known in the art at the time of the applicant’s invention that an online workgroup could be organized for a specific purpose, project, or occasion. The use of the terms “occasion” and “theme” in the claims does not patentably distinguish the invention over the combination of Tatham, Maurille, and Sluiman.

In response to argument 5 (set forth in the brief under “Ground 5”), the combination of Tatham and Maurille does disclose an application service provider and collaborating servers as recited in claims 6 and 10. The previous line citation to Maurille, column 5, line 55 through column 6, line 12, clearly states the use of web servers to provide applications to users of the conferencing system. See Maurille, figure 1, items 112, 114, 116, and 117, as referenced in the previous citation. Furthermore, it is clear that these applications work together and also work

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with server databases. Since Maurille sets forth multiple server processes, applications, and data stores working together, the limitation of collaboration between server processes has been met.

Also it is noted that a different interpretation of the claims that utilizes multiple physical devices to complete the collaboration processes would also not patentably distinguish over the prior art of record. In computer networks it is well known, and was well known at the time of the applicant's invention, that processes completed by one physically distinct device can be completed by multiple physically distinct devices and vice versa.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


Respectfully submitted,



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Patent Examiner
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Dated: March 6, 2006

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